

COZEN O'CONNOR
Douglas B. Fox, Esquire (DF 5799)
1900 Market Street
The Atrium – 3rd Floor
Philadelphia, PA 19103
(215) 665-2017
Attorney for the Plaintiff

Fee paid \$125 *E 6/15/07*

FILED
U.S. DISTRICT COURT
2007 JUN 14 P 1:20
S.D. OF N.Y. W.P.

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

LIBERTY MUTUAL FIRE INSURANCE COMPANY
as Subrogee of Jeffrey Aveis

INDEX NO.: 07 Civ. 3352 (CLB)

Plaintiff,

MOTION TO ADMIT COUNSEL

PRO HAC VICE

v.

PB HEAT LLC
doing business as PEERLESS BOILERS
and
BOTTINI FUEL OIL CORPORATION

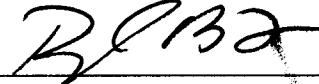
Defendants.

PURSUANT TO RULE 1.3(C) of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York, upon the annexed Affidavit of David W. Smith, Esquire, sworn to June 12, 2007, the Affidavit of Douglas B. Fox, Esquire, sworn to June 12, 2007, and all pleadings and proceedings heretofore had herein, the undersigned will move the Court for an Order allowing the admission *pro hac vice* of David W. Smith, Esquire, a member in good standing of the Bars of the United States District Court for the Northern District of New York; United States District Court for the Eastern District of Pennsylvania; United States District Court for the District of New Jersey; Commonwealth of Pennsylvania and the State of New Jersey, to appear and act as counsel in the above-captioned case *pro hac vice* pursuant to Federal Rules of Civil Procedure for the United States District Court for the Southern District of New York, and for such other and further relief as this Court deems just and equitable and in furtherance of the ends of justice.

PLEASE TAKE FURTHER NOTICE, that answering affidavit, if any, are to be served upon the undersigned attorneys at least seven (7) days before the return date of this motion.

Respectfully Submitted,

COZEN O'CONNOR

A handwritten signature in black ink, appearing to read 'D. B. Fox', is written over a horizontal line.

DOUGLAS B. FOX (DF 5799)

1900 Market Street

The Atrium – 3rd Floor

Philadelphia, PA 19103

(215) 665-2017

Attorney for Plaintiff

Dated: Philadelphia, PA
June 12, 2007

COZEN O'CONNOR
Douglas B. Fox, Esquire (DF 5799)
1900 Market Street
The Atrium – 3rd Floor
Philadelphia, PA 19103
(215) 665-2017
Attorney for the Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

LIBERTY MUTUAL FIRE INSURANCE COMPANY
as Subrogee of Jeffrey Aveis

INDEX NO.: 07 Civ. 3352 (CLB)

Plaintiff,

**AFFIDAVIT OF
DOUGLAS B. FOX**

v.

PB HEAT LLC
doing business as **PEERLESS BOILERS**
and
BOTTINI FUEL OIL CORPORATION

Defendants.

COMMONWEALTH OF PA. :
 : SS
PHILADELPHIA COUNTY

Douglas B. Fox, Esquire, being duly sworn, deposes and says as follows:

1. I am an attorney duly licensed to practice law in the State of New York, and an attorney with the law firm of Cozen O'Connor, attorneys for the Plaintiff, Liberty Mutual Fire Insurance Company, in the above-entitled action.

2. I am a member in good standing and duly admitted to practice before this Honorable Court.

3. I am fully familiar with the facts and circumstances as hereinafter set forth, and make this Affidavit in support of the Plaintiff's motion to have David W. Smith, Esquire, admitted of counsel, *Pro Hac Vice*, with respect to the above-entitled action.

4. The affiant has been acting as local counsel with respect to this matter, and respectfully requests that the Court allow David W. Smith, Esquire to be admitted *Pro Hac Vice* for purposes of serving as counsel for Plaintiff, Liberty Mutual Fire Insurance Company.

5. The affiant has known Mr. Smith to be an excellent attorney who has a great deal of experience with respect to the issues being presented in the present lawsuit and is a member in good standing of the United States District Court for the Northern District of New York; United States District Court for the Eastern District of Pennsylvania; United States District Court for the District of New Jersey; Commonwealth of Pennsylvania and the State of New Jersey.

6. The affiant respectfully submits to the Court that Mr. Smith is not only an excellent attorney, but is a person of unimpeachable character who would do justice to both their client and the Bar. The Court is respectfully referred to the attached Affidavit regarding Mr. Smith's qualifications with the respect to the subject claims.


7. The affiant respectfully requests that David W. Smith, Esquire be admitted *Pro Hac Vice* in the above-entitled action to serve as counsel with respect to the subject claims.

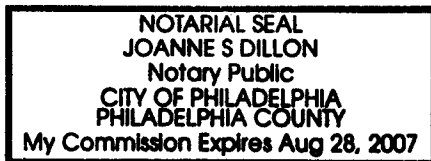
WHEREFORE, Douglas B. Fox, Esquire respectfully requests that the Court grant an Order allowing the admission, *Pro Hac Vice*, of David W. Smith, Esquire to the United States District Court for the Southern District of New York to practice with respect to the above-captioned action, together with such other and further relief as the Court may deem just and proper.

Dated: Dated: Philadelphia, PA
June 12, 2007


DOUGLAS B. FOX (DF-5799)

Sworn to before me this 12th day
of June 2007


Notary Public



COZEN O'CONNOR
1900 Market Street
The Atrium – 3rd Floor
Philadelphia, PA 19103
(215) 665-2017
Attorney for the Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

LIBERTY MUTUAL FIRE INSURANCE COMPANY
as Subrogee of Jeffrey Aveis

Plaintiff,

INDEX NO.: 07 Civ. 3352 (CLB)

**AFFIDAVIT OF
DAVID W. SMITH**

v.

PB HEAT LLC
doing business as PEERLESS BOILERS
and
BOTTINI FUEL OIL CORPORATION

Defendants.

COMMONWEALTH OF PA. :
: SS
PHILADELPHIA COUNTY :

I, David W. Smith, Esquire, being duly sworn, depose and say:

1. I am a member of the law firm of Cozen O'Connor.
2. I submit this affidavit in support of my motion for admission to practice pro hac vice in the above-captioned matter.
3. As shown in the Certificates of Good Standing annexed hereto I am a member in good standing of the United States District Court for the Northern District of New York; United States District Court for the Eastern District of Pennsylvania; United States District

Court for the District of New Jersey; Commonwealth of Pennsylvania and the State of New Jersey.

4. There are no pending disciplinary proceedings against me in any State or Federal court.

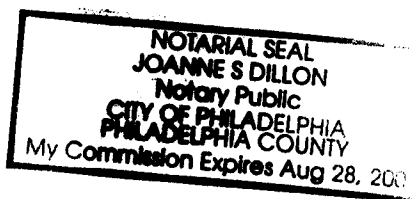
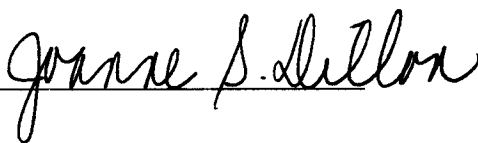
5. If the Court shall allow my Motion to Appear *pro hac vice* in the above-captioned matter, with reference to all matters, incidents or proceedings, I agree that I shall be subject to the orders and the United States District Court for the Southern District of New York in all respects as if I were regularly admitted and a licensed member of the United States District Court for the Southern District of New York in good standing.

6. Wherefore, your affiant respectfully submits that he be permitted to appear as counsel and advocate pro hac vice in this one case.



David W. Smith
COZEN O'CONNOR
1900 Market Street
The Atrium – 3rd Floor
Philadelphia, PA 19103
dwsmith@cozen.com
215-665-2103

Sworn to before me on this
12th day of June 2007





Supreme Court of Pennsylvania

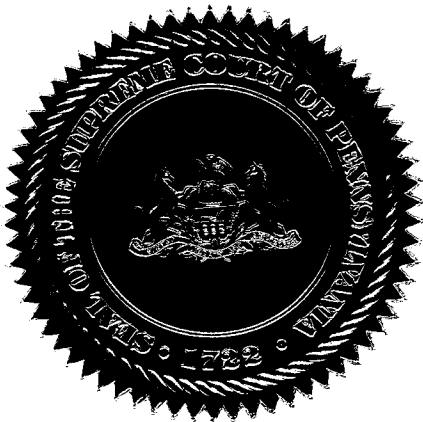
CERTIFICATE OF GOOD STANDING

David William Smith, Esq.

DATE OF ADMISSION

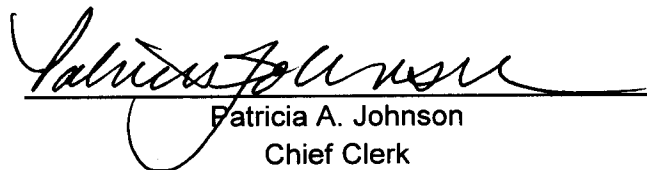
May 23, 1996

The above named attorney was duly admitted to the bar of the Commonwealth of Pennsylvania, and is now a qualified member in good standing.



Witness my hand and official seal

Dated: May 2, 2007


Patricia A. Johnson
Chief Clerk

Certificate of Good Standing



United States of America

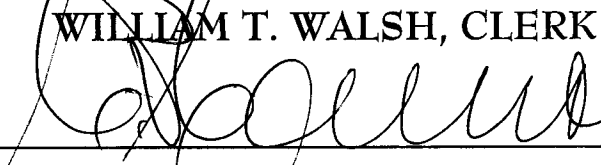
District of New Jersey

I, WILLIAM T. WALSH, Clerk of the United States District Court for the District of New Jersey, do hereby certify that:

David W. Smith

was duly admitted to practice in said Court as of December 1, 2004, and is in good standing as a member of the Bar of said Court.

Dated at Newark, New Jersey
on: May 15, 2007

By 
WILLIAM T. WALSH, CLERK
Carey P. Carlisle, Deputy Clerk

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Attorney for the Plaintiff

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Plaintiff,

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Defendants.

INDEX NO.: 07 Civ. 3352 (CLB)

**ORDER FOR ADMISSION
PRO HAC VICE
ON WRITTEN MOTION**

THIS MATTER comes before me upon motion of the Plaintiff, Liberty Mutual Fire Insurance Company to permit David W. Smith, Esquire, a member in good standing of the United States District Court for the Northern District of New York; United States District Court for the Eastern District of Pennsylvania; United States District Court for the District of New Jersey; Commonwealth of Pennsylvania and the State of New Jersey, to appear and conduct proceedings in the above-entitled case *Pro Hac Vice*. It appearing from the affidavits submitted in support of this motion that there is good cause for the relief sought, and further that the movant has certified that David W. Smith, Esquire is ready to proceed and that, therefore, the granting of this motion will not delay this action;

IT IS, this ____ day of _____, 20__ ORDERED that David W. Smith, Esquire be admitted to appear ***Pro Hac Vice*** in connection with the above-entitled case.

DATED: New York, New York
_____, 2007

, J.

CERTIFICATE OF SERVICE

I, DOUGLAS B. FOX, do hereby certify that a copy of the foregoing Plaintiff's Motion for Pro Hac Vice has been served upon all parties of record this 12th day of June, 2007 by First Class Mail, postage pre-paid addressed as follows:

Counsel for Defendant PB Heat LLC d/b/a Peerless Boilers

Brian J. Powers (BP-1992)
Law Office of Thomas K. Moore
Office & P.O. Address
701 Westchester Avenue-Suite 101W
White Plains, New York 10604
Ph: 914-285-8500

and

Bottini Fuel Oil
ATTENTION: RISK MANAGER
2785 West Main Street
Wappingers Falls, NY 12590



DOUGLAS B. FOX (DF-5799)

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Attorney for the Plaintiff

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DATED: New York, New York
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